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Attorneys for Defendants CITY OF FOLSOM, JOSEPH HOWARD, BRIAN LOCKHART,
ROMAN KEHM, ZACHARY WELLS, JOHN WAGNER, BRANDON MONSOOR, PAUL
RICE, DEREK KOUPAL, MICHAEL AUSTIN, JOSHUA SENA, EATHAN VAVACK, JOHN
MONIZ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE P. UMBERGER II, LISABETH A.
KING, SAVANNAH R. BAILEY,

Plaintiffs,

v.

CITY OF FOLSOM, DETECTIVE JOSEPH
HOWARD, COMMANDER BRIAN
LOCKHART, SERGEANT ROMAN
KEHM, SERGEANT ZACHARY WELLS,
SERGEANT JOHN WAGNER,
SERGEANT BRANDON MONSOOR,
SERGEANT PAUL RICE, CORPORAL
DEREK KOUPAL, OFFICER MICHAEL
AUSTIN, OFFICER JOSHUA SENA,
OFFICER EATHAN VAVACK, AND
OFFICER JOHN MONIZ,

Defendants.

CASE NO. 2:24-cv-010169-KJM-JDP

**DEFENDANTS' NOTICE OF
MOTION AND MOTION TO
DISMISS PLAINTIFF'S
COMPLAINT**

Date: October 9th, 2025

Time: 10:00 AM

Courtroom: 9, 13th Floor (via Zoom)

Complaint Filed: 04/22/2024

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1 NOTICE IS HEREBY GIVEN that on the above date and time and in the above Courtroom
2 of the United States District Court, Eastern District of California located at 501 I Street, Sacramento,
3 California, Defendants CITY OF FOLSOM, JOSEPH HOWARD, BRIAN LOCKHART, ROMAN
4 KEHM, ZACHARY WELLS, JOHN WAGNER, BRANDON MONSOOR, PAUL RICE, DEREK
5 KOUPAL, MICHAEL AUSTIN, JOSHUA SENA, EATHAN VAVACK, JOHN MONIZ hereby
6 move the Court for an order dismissing the Complaint of Plaintiffs, pursuant to Federal Rules of
7 Civil Procedure (“Fed. R. Civ. P.”) 12(b)(6) on the following grounds:

- 8 1. Plaintiffs’ judicial deception claim for violation of the Fourth Amendment (first claim for
9 relief) fails as a matter of law, as to both search warrants at issue, because the claimed
10 omissions/misrepresentations are either not material or do not effect the finding of probable
11 cause; in addition, there are insufficient allegations against Defendant Wagner in said claim;
- 12 2. Plaintiffs’ claim for forced entry for violation of the Fourth Amendment (first claim for
13 relief) fails because the allegations reveal sufficient exigency; in addition, there are
14 insufficient allegations against Defendant Howard in said claim;
- 15 3. Any claim arising from detention itself of Plaintiffs during the execution fails;
- 16 4. Plaintiffs’ failure to intervene claim against Defendants Monsoor, Vavack, Rice and Moniz
17 fails to state sufficient facts specific to each individual;
- 18 5. The fifth claim for Excessive Handcuffing against all defendants fails for lack of specificity
19 against each defendant;
- 20 6. All Official Capacity Suits are Redundant to the Claims Against the CITY and should be
21 dismissed;
- 22 7. The first, second, third, fourth and fifth claims for relief fail to state sufficient facts of a
23 Monell-type claim against the City.
- 24 8. Plaintiffs’ Seventh claim for Failure to Supervise, Hire, Train and Discipline against the City
25 for a Monell-type claim fails.
- 26 9. Plaintiffs’ Eight claim against the City for a Monell-type claim fails.

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1 Dated: August 11, 2025

PORTER SCOTT
A PROFESSIONAL CORPORATION

By /s/ John R. Whitefleet
John R. Whitefleet
Attorney for Defendants